

MINUTES

P & Z COMMISSION HEARING

October 15, 2009

ATTENDANCE P & Z Commissioners

ATTENDED

1. Wendell DeCross, Chairman
2. Joel Lawson
3. Robert K. Black, Sr.
4. Rick Slone
5. Chuck Teetsel
6. Bill Rawlings
7. Ruth Ann Smith

ABSENT

Evelyn Meadows
Carol Davis
Jason Hatch
Bob Hall

Staff Attendance

Greg Loper
Linda Elliott
Trent Larson

Alberto L. Peshlakai
Homero Vela
Lance Payette

Meeting held at the Navajo County Board of Supervisors Chambers, Holbrook, Arizona - Time: 6:00 p.m.

Chairman, Wendell DeCross called the meeting of the Navajo County Planning & Zoning Commission to order. Mr. DeCross led the Pledge of Allegiance and explained the meeting procedures to the public, as well as some of the housekeeping rules. He asked those who want to address the Planning and Zoning Commission to come to the podium, and state their name prior to speaking.

Item # 1 - SPECIAL USE PERMIT: Discussion and possible Commission action on a request by Executive Consulting, Inc, for a Special Use Permit to develop a guest ranch using the existing rooms and office in the house to enable guests to stay on site and participate in the horse clinics/workshops on the subject 40 acre property known as APN: 404-53-005, located at 9125 Grant Road, in the White Mountain Lake area.

The Staff report was presented by **Linda Elliott** who introduced the item which is a request for a Special Use Permit to develop a Guest Ranch using the existing house as guest rooms for participants in horse clinics/workshops, in the Chamisa Ranches area – Highway 60 east to Bourdon Ranch Road, northeast approximately 6 miles to Ripple Road, east to Raven Road, north to Grant Road. Staff had no further concerns and recommended approval of a Special Use Permit, with conditions.

Owner/Applicant Comments: **Ellen Colemire** of Executive Consulting: their objective was to simply use their existing facilities in a broader way to allow the public to use their facilities for occasional clinics that have been requested over the years. They agree with the proposed conditions.

In Favor: No one from the public came forward in favor of this Special Use Permit.

Opposed: No one from the public came forward in opposition of this Special Use Permit.

Staff's Questions/Comments: There were no further questions/comments from staff.

Commissioner's Questions/Comments:

A motion was made by Joel Lawson to approve this Special Use Permit with recommendations and conditions stated by staff.

PUBLIC WORKS DEPARTMENT RECOMMENDATION: Should the Commission grant this Special Use Permit request, staff would recommend the following conditions be applied: *1. The permitted Special Use Permit shall run with the land. 2. This Special Use Permit shall permit the development of a Guest Ranch and other related facilities on the subject property. 3. The permitted Special Use shall be allowed to occur only in the location shown on the approved site plan. 4. The Guest Quarters must meet handicap access requirements. 5. Dust control. The applicant shall use dust control methods during the training events.*

The motion was seconded by Chuck Teetsel, and passed unanimously. **In Favor: 7, Opposed: 0.**

Item # 2 - SPECIAL USE PERMIT: Discussion and possible Commission action on a request by Langley NZ Ranches, LLC, for a Special Use Permit to allow NZ Legacy to erect 4 meteorological towers to measure wind and solar elements for the potential of alternate power on portions of the Bar J Bar Energy project site, described as a portion of APN 110-08-003A in Section 27, T16N,

R21E; a portion of APN 110-03-001E in Sections 01 & 05, T15N, R21E; and a portion of APN 110-03-001D in Section 03, T15N, R21E, in the Snowflake area.

The Staff report was presented by **Greg Loper** who presented to the commission a request from NZ Legacy to amend their Special Use Permit application for the Bar J Bar Energy Project to allow placements of four (4) Meteorological testing towers (met towers) at the locations identified by the orange outline on the conceptual site plan that was displayed for the commission and pointing out all four locations. Each testing tower will have a total height of 197 feet to measure wind for the potential of alternate energy. **Greg Loper** explained the notice procedure to the commission and public that at the first planning and zoning meeting there was approximately 100 people and based on the sign-in sheet from both public meetings it has grown to over 300 addresses and or emails. Staff has tried to keep everyone notified of all five projects. For the hearing for tonight, we did our usual letter to the 300' buffer, we inadvertently sent that same letter to all the people. Greg apologized to the commission and those in attendance for this error on behalf of staff. **Chuck Teetsel** asked what the color code relates to, white, yellow and blue. Greg Loper responded; blue state land holding, and yellow BLM/Federal land holdings.

Owner/Applicant Comments: **Rulon Anderson** of 3523 E Presidio Circle, Mesa, Arizona representing Langley NZ Ranches. Mr. Anderson stated that they have amended their application only seeking to place four meteorological towers within the subject parcels as stated on application request. These towers are to test the evaluation of wind for future wind development. **Wendell DeCross** asked if there is a specific timeframe for these. **Greg Loper** responded that they begin construction within twelve months and remove them within thirty-six months and further stated the Special Use Permit only allows meteorological towers.

In Favor: No one from the public came forward in favor of this Special Use Permit.

Opposed: **Dan Umphress** of section 24 commented that he really believes that changing their application for applying for the Special Use Permit for the test towers is nothing more than allowing them a foot in the door; information they are seeking from the test towers can be provided from the Dry Lake Wind Farm Project due to them being in operation. Mr. Umphress stressed that neighbors don't want to see this development, all who reside in that area enjoy the view, the rural atmosphere, and further commented on nuisance law that should be taken into consideration. **Rick Slone** requested that individuals speaking show the commission where they reside on the conceptual site plan provided. **Dana Myatt**, P.O. Box 900, Snowflake, Arizona had concerns in reference to water usage of the Coconino aquifer, and stated that if the purpose to having this project to conserve the resources of this planet by installing solar with a potential to endanger water is not a good trade off in her opinion. **Greg Loper** reminded that this discussion is for meteorological towers that only measure wind and not wind turbines/solar panels. **Len Smith** of APN: 110-38-007, who attended the public hearings commented that the land being proposed for this project is very delicate and bruises easily and his main concern was that the ground will be disturbed after its been degraded by the development. **Karen Ingersoll** of the north end of section 14 read the Declaration of Independence paragraph two (2), Arizona Enabling Act, and A.R.S 38 Section 23. The development of meteorological towers will only lead to the development of the proposed Wind Turbine and Solar Renewable Energy Project. **Larry Ledford** who resides in Hay Hollow, asked what is the reason for the towers, and why do you want to measure wind. Mr. Ledford wanted answers relating to the tower, water usage, and recommended that it be voted down. **Dean Mair**, one mile south of Woodruff on Woodruff/Snowflake road, asked how can we discuss this proposed project when we haven't heard the restrictions that the county has recommended and are we going to hear tonight that the commission will put them on this request; **Jim Bender** of DeSpain Avenue, asked the commission can we trust the developer in actually doing what they intend to do. **Shawan Clifford**, Reidhead-South of DeSpain, commented that she can see the Dry Lake Wind Farm; approving this request is not right and recommended that it be voted down.

Rhoda McGuire of 9636 Gazias Trail off Butler Road on Hay Hollow, representing Alliance for Responsible Energy of Northern Arizona, supplied the commission with a petition that was signed by 244 people, which requires responsible stipulations on the met towers. All who signed are not in support of this project, and basically are trying to dampen down the development. **Greg Loper** displayed a photograph of meteorological towers and provided information that there are numerous met towers, about two dozen around the county, and some on BLM/State land that doesn't require them to go through this permitting process.

Staff's Questions/Comments: There were no further questions/comments from staff.

Commissioner's Questions/Comments:

Chuck Teetsel asked if the Drylake Wind Farm is in state, federal, and BLM land. **Greg Loper** responded that its developed on all three. **Joel Lawson** asked the cost of the met towers. **Mr. Anderson** responded about forty to fifty thousand dollars apiece. **Chuck Teetsel** asked if the applicant is paying for these towers. **Mr. Anderson**, stated that developers will be paying for the installation of the towers.

A motion was made by **Bill Rawlings** to approve this Special Use Permit with recommendations and conditions stated by staff.

PUBLIC WORKS DEPARTMENT RECOMMENDATION: Should the Commission grant this Special Use Permit request, staff would recommend the following conditions be applied: 1. *This Special Use Permit shall allow for the installation of a maximum of 4 meteorological towers, each with a maximum height of 197 feet. The meteorological tower(s) are to measure wind and solar conditions on the subject properties.* 2. *The meteorological tower(s) shall be allowed to occur only in the locations as indicated on the approved site plan, except as may otherwise be approved by the Navajo County Public Works Department.* 3. *Building permits are required for all meteorological tower(s) and any accessory uses (such as fences, etc.), and the issuance of a permit shall be acquired prior to placement of any meteorological tower(s).* 4. *A Floodplain Use Permit (where required) shall be obtained prior to issuance of any building permits.* 5. *Meteorological tower(s) and all guy-wire attachments/footings shall be enclosed by a security fence with a maximum height of 8' (excluding barbed wire or cyclone wire).* 6. *Each meteorological tower(s) shall include the installation of lighting that conforms to FAA regulations. The top thirty feet (30') of each meteorological tower(s) shall also be*

7. Prior to acquiring a building permit, work with the Game & Fish Department to determine the installation of Bird Flight Diverters on the guy wires and the location of acoustic monitoring stations on the met towers. 8. Prior to acquiring a building permit, work with the Game & Fish Department to select tower sites that avoid habitat features that congregate wildlife. 9. Provide GPS locations of the final sites to the Game & Fish Department and to Navajo County. 10. The meteorological tower(s) shall be located so it will not fall onto an adjacent property nor another structure. 11. The minimum setback for the meteorological tower(s) shall be 1,000' from the boundary of the Special Use Permit area. 12. Construction of the meteorological tower(s) shall commence within twelve (12) months following approval by the Navajo County Board of Supervisors. Failure to do so may result in a review by the Board of Supervisors for possible revocation of the Special Use Permit. 13. The Special Use Permit shall be reviewed 36 months after Board of Supervisors approval to determine whether it should be extended or terminated.

The motion was seconded by **Ruth Ann Smith**, and passed. **In Favor: 5, Opposed: 2.**

Item # 3 - SPECIAL USE PERMIT: Discussion and possible Commission action on a request by Langley NZ Ranches, LLC, for a Special Use Permit to allow NZ Legacy to erect 4 meteorological towers to measure wind and solar elements for the potential of alternate power on portions of the F Bar Energy project site, described as a portion of APN 202-27-003L in Section 05, T14N, R21E; a portion of APN 202-27-003J in Section 09, T14N, R21E; and a portion of APN 202-50-012 in Section 17, T14N, R21E, in the Snowflake area.

The staff report was presented by **Greg Loper** who further stated some of the modifications to the application. This is near the town of Snowflake. This is one of the five NZ Legacy projects, the one we previously heard is Bar J Bar, this is known as the F Bar Energy Project. Its located approximately two miles north of the Town of Snowflake town limits. Greg informed the commission of a modification to the application, the original proposal was proposed for four meteorological towers within the F bar Project to three specific section. Section 17, identified as APN 202-50-012 is now being excluded from the application. The application before you is for three meteorological towers, one in section 14, and two within section 9 and no longer section 17. This item is similar as to what was requested in the previous item.

Owner/Applicant Comments: **Rulan Anderson** noted that there is an existing meteorological tower that is by Iberdrola and that is the reason why one is not proposed in APN 202-50-012 and briefly provided information on the meteorological towers.

In Favor: No one from the public came forward in favor of this Special Use Permit.

Opposed: **Wayne Ledford** commented regarding Wind Turbines and doesn't want the skyline disturbed by the erection of the turbines. **Kate Turner** requested of the Commission that the Special Use Permit disclose to who they are leasing the property and who are the ones erecting the tower. **LuAnn Garbinie**, requested that the Commission continue this hearing and delay this decision due to insufficient information provided regarding lights, how much grading will be done, not enough information as to access to the site, or the maintenance, and guide wire concerns need to be addressed and provided. **Larry Wood** requested that the stipulations be read that are being placed on the Special Use Permit. **Dawn Marino** requested the stipulations be read, and had concerns about the lighting on the tower, and that on the letter it states that it's going to measure wind and solar, but previously was stated tonight that its only for wind. Mr. Marino further asked if there will be further requests to measure solar. **Greg Loper** responded that the applicant hasn't submitted an application for solar, but this is for wind measurements only. **Wendell DeCross** recommended that staff read the stipulations. Greg Loper read the stipulations with changes as follows. **1.** Special Use Permit shall allow for the installation of a maximum of 3 meteorological towers, each with a maximum height of 197 feet. The meteorological tower(s) are to measure wind conditions on the subject properties. **2.** The meteorological tower(s) shall be allowed to occur only in the locations as indicated on the approved site plan, except as may otherwise be approved by the Navajo County Public Works Department. Exclude section 17. **6.** Each meteorological tower(s) shall include the installation of lighting that conforms to FAA regulations and shall exclude the use of strobe lighting. The top thirty feet (30') of each meteorological tower(s) shall also be painted in alternating orange and white colors.

Rhoda McGuire brought up concerns regarding the lighting; strobe lighting can cause epileptic seizures and had a concern that guide wires shouldn't be used, and that the tower should stand by itself. **Lance Payette** recommended that the commission use the word strobe lighting. **Chuck Teetsel**, asked what does the FAA recommend. **Greg Loper** responded that they are below FAA height lighting requirements and Public Works is recommending for safety precautions. **Rick Slone** said the reason being requested is for aviation safety. **Greg Loper** responded yes. **Wendell DeCross** stated that its a request from Game and Fish. **Greg Loper** responded that if we request FAA to respond, they will respond that its not in their jurisdiction. Mr. Loper responded concerning the use of guide wires which is less intrusive on the environment and the removal is a lot easier and that the applicant work with game and fish on the guide wires. **Gene Howl** asked if the 1000 foot setback includes the fencing of the guide wires. **Greg Loper** responded that it would be generally 100' from the center of the tower for the guide wires.

Staff's Questions/Comments: There were no further questions/comments from staff.

Commissioner's Questions/Comments: There were no further questions/comments from the commission.

A motion was made by **Bill Rawlings** to approve this Special Use Permit with recommendations and conditions stated by staff.

PUBLIC WORKS DEPARTMENT RECOMMENDATION: Should the Commission grant this Special Use Permit request, staff would recommend the following conditions be applied: **1.** This Special Use Permit shall allow for the installation of a maximum of 3 meteorological towers, each with a maximum height of 197 feet. The meteorological tower(s) are to measure wind and solar conditions on the subject properties. **2.** The meteorological tower(s) shall be allowed to occur only in the locations as indicated on the approved site plan, except as may otherwise be approved by the Navajo County Public Works Department. **3.** Building permits

are required for all meteorological tower(s) and any accessory uses (such as fences, etc.), and the issuance of a permit shall be acquired prior to placement of any meteorological tower(s). **4.** A Floodplain Use Permit (where required) shall be obtained prior to issuance of any building permits. **5.** Meteorological tower(s) and all guy-wire attachments/footings shall be enclosed by a security fence with a maximum height of 8' (excluding barbed wire or cyclone wire). **6.** Each meteorological tower(s) shall include the installation of lighting that conforms to FAA regulations. The top thirty feet (30') of each meteorological tower(s) shall also be painted in alternating orange and white colors. **7.** Prior to acquiring a building permit, work with the Game & Fish Department to determine the installation of Bird Flight Diverters on the guy wires and the location of acoustic monitoring stations on the met towers. **8.** Prior to acquiring a building permit, work with the Game & Fish Department to select tower sites that avoid habitat features that congregate wildlife. **9.** Provide GPS locations of the final sites to the Game & Fish Department and to Navajo County. **10.** The meteorological tower(s) shall be located so it will not fall onto an adjacent property nor another structure. **11.** The minimum setback for the meteorological tower(s) shall be 1,000' from the boundary of the Special Use Permit area. **12.** Construction of the meteorological tower(s) shall commence within twelve (12) months following approval by the Navajo County Board of Supervisors. Failure to do so may result in a review by the Board of Supervisors for possible revocation of the Special Use Permit. **13.** The Special Use Permit shall be reviewed 36 months after Board of Supervisors approval to determine whether it should be extended or terminated.

The motion was seconded by **Rick Slone**, and passed. **In Favor: 5, Opposed: 2.**

Item # 4 - TEXT AMENDMENT: Discussion and possible Commission action on a proposed Text Amendment to Section 2001.13 of the Navajo County Zoning Ordinance (Special Uses) to clarify and expand on the definition of Electrical Power Generating Plants. The staff report was given by **Greg Loper** that staff believes that given that there are several proposed and/or pending proposals for wind and/or solar power generating facilities, this clarification is in order. The proposed text amendment continues to allow nuclear or fossil fuel operated power generating facilities, and will also allow for solar, wind, geothermal or other types of electrical power generating, subject to the approval of a Special Use Permit.

Owner/Applicant Comments:

Kate Turner: asked why it is being changed, it is due to NZ Legacy? **Wendell DeCross** responded it has nothing to do with NZ Legacy, and that we are basically updating the word usage to apply to present uses of technology. **Lance Payette** clarified the change further. **Rick Slone** stated that making this change won't exclude any type of energy technology.

In Favor: No one from the public came forward in favor of this Text Amendment.

Opposed: No one from the public came forward in opposition of this Text Amendment.

Staff's Questions/Comments: There were no further questions/comments from staff.

Commissioner's Questions/Comments:

A motion was made by **Chuck Teetsel** to approve this Text Amendment as stated by staff.

The motion was seconded by **Rick Slone**, and passed unanimously. **In Favor: 7, Opposed: 0.**

Item # 5- Possible approval of the July 16, 2009 Minutes.

A motion was made by **Chuck Teetsel** to approve the minutes as printed. **Joel Lawson** seconded the motion. The motion carried unanimously.

Item # 6- Possible approval of the August 20, 2009 Minutes.

A motion was made by **Ruth Ann Smith** to approve the minutes as printed. **Bill Rawlings** seconded the motion. The motion carried unanimously.

Item # 7 - Department report to Commission.

Item #8- Commissioners' comments and/or directions to staff. Commissioners may use this time to offer additional comments regarding any item on this agenda or any other topic; and the Commission may direct Planning & Zoning staff to study or provide additional information on topics of the Commissions' choosing.

With there being no further business to come before the Planning and Zoning Commission, the meeting was adjourned at 7:51 p.m. A motion to adjourn the meeting by **Chuck Teetsel**. **Rick Slone** seconded the motion. Motion unanimously passed.

Approved this 19th day of November, 2009

Wendell DeCross

Chairman, Navajo County
Planning & Zoning Commission
ATTEST:

Alberto L. Peshlakai

Secretary, Navajo County
Planning & Zoning Department

